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Definition of an Investment Advice Fiduciary

Comment On: EBSA-2023-0014-0001
Retirement Security Rule: Definition of an Investment Advice Fiduciary

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Submitter Information

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General Comment

I have 40 years experience as an independent financial advisor who provides planning, retirement, and other financial services to help Main Street Americans plan for a secure financial future. As a member of the Financial Services Institute, I am writing to express my concern with the Department of Labor's (DOL) recently proposed Retirement Security Rule. If adopted, the Proposed Rule will harm the very retirement savers it seeks to help by limiting their access to affordable financial advice, products, and services on which they rely to secure a dignified retirement.

Having a relationship with a trusted financial advisor helps people save more for retirement. I provide my clients with comprehensive financial advice and as an independent financial advisor, I can recommend products that are in their best interest. Currently, my clients can choose how to pay for that financial advice. Far from being a “junk fee,” commissions are an important way that advisors are able to serve those who may not otherwise be able to afford to work with an advisor because they have less investable assets. If this rule is finalized, I will be unable to work with smaller accounts or help lower and middle-income savers plan for retirement. This will most impact those earning below $100,000 per year.

The DOL proposed a similar rule in 2016 and as a result more than 10 million smaller retirement account owners could no longer afford to work with their financial advisor.

Not only did a Federal Court invalidate the 2016 Rule, but the Securities Exchange Commission (SEC) and state regulators imposed their own best interest standards. In light of the SEC’s Regulation Best Interest, the fact that more than forty states have adopted the NAIC model regulation, and DOL’s PTE 2020-02, which requires compliance with already established conduct standards, the proposed Retirement Security Rule is unnecessary.

I urge the DOL to withdraw this rulemaking to support Main Street investors, small business owners, and our community's access to crucial financial advice.

If you would like to do something tremendous that would have an enormously positive effect on consumers' retirement success rates, talk with your colleagues about simply eliminating the 10% early withdrawal penalties on qualified retirement accounts. It raises very little revenue for the Treasury, but what it does do very very well, is prevent people from saving for their retirement. Why not let people save the money when THEY have it to save? If they have an emergency, which inevitably will happen, they can take the money out and pay taxes as they would have anyway. I hear it every day "What if I need money for an emergency? I'll be forced to pay a penalty!" So, they don't save at all.

This early withdrawal penalty may be designed to prevent people from withdrawing from their retirement accounts, BUT what does MUCH MORE EFFECTIVELY is it prevents people from investing in the first place. IT IS COUNTERPRODUCTIVE!!!